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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,551	11/14/2003	Reinhold Kett	2293-1-3	7976

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EXAMINER	
HAN, JASON	

ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/713,551	KETT, REINHOLD	
	Examiner	Art Unit	
	Jason M. Han	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

2. Claim 1 is objected to because of the following informalities: Applicant recites the limitation in line 8 of the claim, "the open end", which lacks antecedent basis. Appropriate correction is required, whereby the examiner has assumed the best-deemed interpretation in the rejection below.

3. Claim 1 is objected to because of the following informalities: Applicant recites the limitation in line 8 of the claim, "can be closed by a cap", which renders an indefinite structure. Applicant is encouraged to use a positive limitation, such as, "is closed off by a cap".

4. Claim 1 is objected to because of the following informalities: Applicant recites the limitation in line 9 of the claim, "the duct", which lacks antecedent basis. Appropriate correction is required, whereby the examiner has assumed the best-deemed interpretation in the rejection below.

5. Claim 5 is objected to because of the following informalities: The "and/or" and repetitive "and" statements render an indefinite structure, whereby the examiner has chosen the broadest interpretation given the uncertainty to how the conjunctions are related to one another syntactically. Appropriate correction is required.

6. Claim 8 is objected to because of the following informalities: Applicant recites the limitation in lines 2-3 of the claim, "the holder or support", which lacks antecedent basis. Appropriate correction is required, whereby the examiner has assumed the best-deemed interpretation in the rejection below.

7. Claim 10 is objected to because of the following informalities: Applicant recites the limitation in lines 2-3 of the claim, "can be placed on the luminous element", which renders an indefinite structure. Applicant is encouraged to use a positive limitation, such as, "is placed on the luminous element".

The following claims have been rejected in light of the specification, but rendered the broadest interpretation as construed by the examiner [MPEP 2111].

Claim Rejections - 35 USC § 103

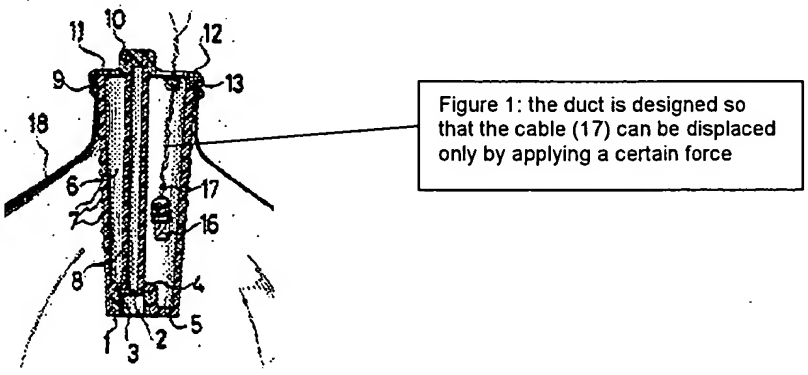
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-4 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szollmann (U.S. Patent 4292999).

9. With regards to Claim 1, Szollmann discloses a lighting device for balloons including:

- An illuminant [Figure 1: (16)] received by a luminous element [Figure 1: (6)] which is arranged through the opening and in the interior of the balloon [Figure 1: (18)];
- Whereby the luminous element is substantially cylindrical in shape and closed on one side [Figure 1: (1-5)] that is disposed within the interior of the balloon;
- Whereby the surface area of the cylindrically shaped luminous element is engaged with the opening area of the balloon [Figure 1];
- Whereby the cross-section of the cylindrically shaped luminous element is dimensioned to be larger than the opening of the balloon [Figure 1];
- Whereby an open end of the cylindrically shaped luminous element is closed off by a cap [Figure 1: (10-11)] through which a cable [Figure 1: (17)] is guided to the illuminant;
- Whereby a duct [Figure 1] is designed so that the cable can be displaced only by applying a certain force.



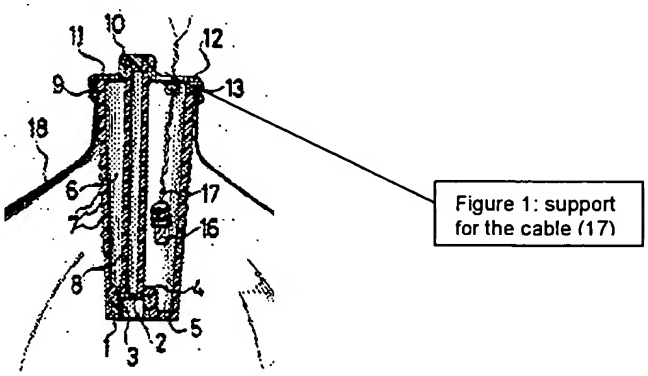
Szollmann does not specifically teach the cylindrically shaped luminous element being an actual cylinder. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to change the luminous element into a

cylinder, since it has been held to be within the general skill of a worker that mere change of form or shape of an invention involves only routine skill in the art. *Span-Deck Inc. c. Fab-Con, Inc. (CA 8, 1982)* 215USPQ 835. In this case, providing a cylinder shaped luminous element may add to aesthetic appeal, as well as make it more difficult to remove the luminous element from the balloon.

10. With regards to Claim 2, Szollmann discloses the claimed invention as cited above. In addition, Szollmann teaches a tension ring [Figure 1: (7)] being provided on the surface area of the cylinder for additionally securing and sealing the opening the balloon.

11. With regard to Claims 3 and 4, Szollmann discloses the claimed invention as cited above. In addition, Szollmann teaches the luminous element [Figure 1: (6)] having a translucent partial area being made of a plastic material, and whereby as a whole, the luminous element consists of translucent material [Column 2, Line 67 – Column 3, Line 2].

12. With regards to Claim 8, Szollmann discloses the claimed invention as cited above, and further teaches the cap being part of a holder or support.



13. With regards to Claim 9, Szollmann discloses the claimed invention as cited above. In addition, Szollmann teaches a small incandescent light bulb [Figure 1: (16); Column 2, Line 62], which is obviously a low voltage lamp.

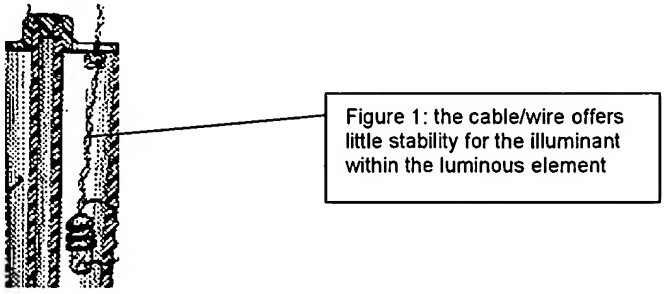
14. Claims 5-7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szollmann (U.S. Patent 4292999) as applied to Claim 1 above, and further in view of Ambrico (U.S. Patent 6142415).

15. With regard to Claims 5-7, Szollmann discloses the claimed invention as cited above, but does not specifically teach a supporting element which is fixed to the illuminant and/or to a partial section of the balloon and forming the balloon opening and which forms a supporting face for the outside of the balloon in the area of the balloon opening (re: Claim 5); nor teaches a support arranged in the luminous element for the at least one illuminant (re: Claim 6), whereby the support extends in the direction of the longitudinal axis of the luminous element and forms, at one end, a plate-shaped section at which the illuminant or a holder for said illuminant is provided (re: Claim 7)

Ambrico teaches a supporting element/holder [Figure 2: (40)] which is fixed to an illuminant [Figure 2: (41)], and further teaches the support extending in a longitudinal direction perpendicular to a plate-shaped section [Figure 2: (30)] at which a holder for said illuminant is provided.

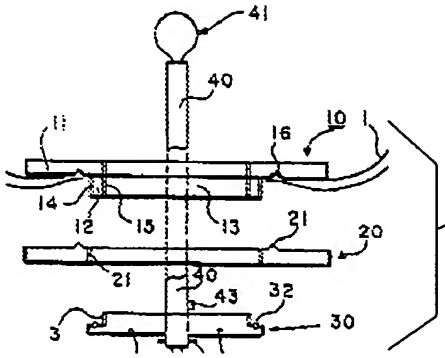
It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the illuminating balloon device of Szollmann to incorporate the supporting element for an illuminant, as taught by Ambrico, within the luminous element

of Szollmann so as to provide greater stability for the illuminant and prevent it to be loosely (e.g., wire or cable) hanging.



16. With regard to Claims 10-12, Szollmann discloses the claimed invention as cited above, but does not specifically teach a supporting element that is placed on the luminous element so as to support the balloon (re: Claim 10); whereby the supporting element has a conically extending supporting section that forms a contact face for the outside surface of the balloon (re: Claim 11); and whereby the supporting element is adapted to be clamped to the luminous element (re: Claim 12).

Ambrico teaches a supporting element [Figure 2: (20); Figure 7: (10, 20, 80)] that is placed on a luminous element [Figure 2: (30, 40, 41)] so as to support a balloon [Figure 2: (1-2)], whereby the supporting element [Figure 7: (20, 80)] has a conically extending supporting section that forms a contact face for the outside surface of the balloon, said element being adapted to be clamped to the luminous element.



Definition of a clamp (Merriam-Webster's Collegiate Dictionary – 10th Ed.) – any of various instruments or appliances having parts brought together for holding or compressing something

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the illuminating balloon device of Szollmann to incorporate the support element, as taught by Ambrico, so as to provide a robust support where the illuminant is more appropriately centered within a balloon [note figure above].

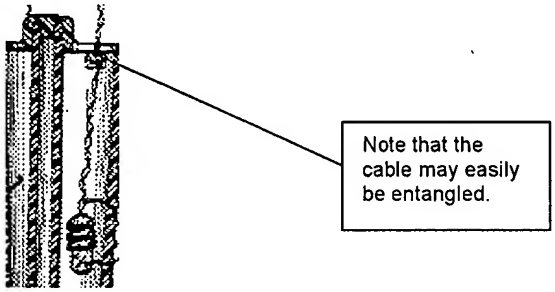
17. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szollmann (U.S. Patent 4292999) as applied to Claim 1 above, and further in view of Chabert (JP10188622A).

Szollmann discloses the claimed invention as cited above, but does not specifically teach the cable being provided with a fixing member inside the luminous element (re: Claim 13), nor teaches a spacer connected to the cable and arranged in the luminous element such that the spacer ensures a predetermined distance between the illuminant and the inner wall of the luminous element (re: Claim 14).

Pierre teaches an illuminated balloon device including a cable [Figures 1-2: (36)] being provided with a fixing member [Figures 1-2: (34)] inside a luminous element [Figures 1-2: (14)], as well as a spacer [Figures 1-2: (32); Detailed Description: Paragraph 0013] connected to the cable and arranged in the luminous element such

that the spacer ensures a predetermined distance between an illuminant [Figures 1-2: (16)] and the inner wall of the luminous element.

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the illuminating balloon device Szollmann to incorporate the fixing member and spacer of Pierre, so as to ensure stability for the illuminant within the luminous element, as well as to prevent entanglement of the cable with other components of the device.



Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (8/29/2005)

Stephen Husar
Primary Examiner